

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EZRA BEYMAN,

Plaintiff,

v.

LNR PARTNERS, LLC, LNR TEXAS
PARTNERS, LLC, and DMITRY SULSKY,

Defendants.

CIVIL ACTION NO. 4:14-cv-02438

**Removed from the District Court
of Harris County, Texas
11th Judicial District
Cause No. 2014-42761**

NOTICE OF REMOVAL

Defendants LNR Partners, LLC (“LNR”), LNR Texas Partners, LLC (“LNR Texas”), and Dmitry Sulsky (“Mr. Sulsky,” and collectively with LNR and LNR Texas, the “Defendants”),¹ hereby remove the state-court action entitled *Ezra Beyman v. LNR Partners, LLC, LNR Texas Partners, Inc., and Dmitry Sulsky*, Cause No. 2014-42761 (the “State Court Action”), filed in the District Court of Harris County, Texas, 11th Judicial District (the “State Court”). Removal is warranted under 28 U.S.C. § 1441 because this is a diversity action over which this Court has original jurisdiction under 28 U.S.C. § 1332. In support of removal, Defendants state as follows:

1. Plaintiff Ezra Beyman (“Plaintiff”) commenced the State Court Action by filing an Original Petition in the State Court on or about July 25, 2014 (the “Original Petition”). The Original Petition was not served on any of the Defendants.

2. On August 1, 2014, Plaintiff filed a First Amended Original Petition (the “Amended Petition”) in the State Court. LNR Texas was first served with the Summons and Amended Petition on August 15, 2014. A copy of the Summons and Amended Petition is

¹ Plaintiff’s First Amended Original Petition also makes reference to “LNR Partners Inc.” and “LNR Texas Partners Inc.” LNR Partners, LLC is the successor by statutory conversion to LNR Partners Inc. Similarly, LNR Texas Partners, LLC is the successor by statutory conversion to LNR Texas Partners Inc.

attached as **Exhibit 1**. LNR and Mr. Dmitry was served with the Summons and Amended Petition on August 20, 2014. Therefore, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

3. The undersigned counsel represents all of the Defendants which authorize the filing of this Notice of Removal. All Defendants have joined in and consented to the removal of this action without waiving their rights to seek to dismiss the complaint for lack of personal jurisdiction or on other grounds.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1332 and 1441, because this is a civil action in which the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different States.

5. The amount in controversy exceeds \$75,000, exclusive of interests and costs. As alleged in the Amended Petition, Plaintiff seeks, among other relief, damages against Defendants “in the amount of at least \$40 million.” Amended Petition ¶ 30. See also id. ¶ 31 (seeking exemplary damages “in the amount of \$10 million”), ¶¶38 & 46 (seeking damages of “at least \$40 million”). The amount in controversy clearly exceeds \$75,000, exclusive of interest and costs.

6. Both at the time of the filing of the action in State Court and at the time of removal, Plaintiff was and is a citizen of the State of New Jersey. Amended Petition ¶ 1.

7. Both at the time of the filing of the action in State Court and at the time of removal, Defendants were and are citizens of the States of Florida and Maryland. Specifically, (i) LNR is a Florida limited liability company whose member is a citizen of the State of Maryland; (ii) LNR Texas is a Texas limited liability company whose member is a citizen of the State of Maryland; and (iii) Mr. Sulsky is a citizen of the State of Florida.

8. Thus, both at the time of the filing of the action in State Court and at the time of removal, there was and is complete diversity of citizenship between Plaintiff and Defendants.

9. This action is properly removed to the United States District Court for the Southern District of Texas (Houston Division), as this Court has original jurisdiction and this is the district and division embracing the place where the State Court action is pending. See 28 U.S.C. § 1441(a); 28 U.S.C. § 124(b).

10. Defendants have filed copies of all process, pleadings, orders, and other court filings served or filed in the State Action, which are attached hereto collectively as **Exhibits 2-8**. See 28 U.S.C. § 1446(a).

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is promptly being served upon counsel for Plaintiff, and a copy is promptly being filed with the Clerk of Court for the District Court of Harris County, Texas, 11th Judicial District.

12. No previous application has been made for the relief requested herein. Counsel signs this Notice of Removal pursuant to Federal Rule of Civil Procedure 11.

WHEREFORE, Defendants respectfully remove this action from the District Court of Harris County, Texas, 11th Judicial District, bearing Cause No. 2014-42761, to this Court.

Dated: August 22, 2014

Respectfully submitted,

/s/ Andrew B. Russell

Andrew B. Russell
Texas Bar No. 24034661
SDTX No. 31885
Attorney in Charge
Andrew.Russell@klgates.com
Clayton L. Falls
Texas Bar No. 24047546
SDTX No. 870862
Clayton.Falls@klgates.com

K&L GATES
1717 Main Street, Suite 2800
Dallas, TX 75201
(214) 939 -5500
FAX: (214) 939-5849

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that on this 22nd day of August, 2014, I filed electronically by CM/ECF with the Clerk of the Court the enclosed Notice of Removal with accompanying exhibits, and served a true copy of the foregoing by first-class mail, postage prepaid, and electronic mail on Plaintiff Ezra Beyman, through its counsel at:

Kevin M. Madden, Esq.
Law Office of Kevin Michael Madden, P.L.L.C.
1001 Texas Ave., Suite 1400
Houston, TX 77002
kmm@kmaddenlaw.com

William R. Pilat
Courtney Palm, Esq.
Kane Russell Coleman & Logan, PC
919 Milam Street – Suite 2200
Houston, TX 77002
cpalm@krel.com

/s/ Andrew B. Russell

Andrew B. Russell